VIACOM
BET Networks > Famous Music > MTV Networks > Paramount Pictures

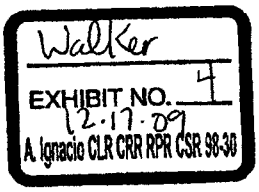
Michael D. Fricklas
Executive Vice President
General Counsel and Secretary

February 2, 2007

David Drummond
Senior Vice President, Corporate Development

Kent Walker
Vice President and General Counsel

Google, Inc.
1600 Amphitheatre Parkway
Mountain View, California 94043



Dear Dave and Kent:

Today, Viacom has sent YouTube take down notices relating to more than 100,000 additional videos on the YouTube site with more than 1.1 billion views of our copyrighted programming. While Viacom is interested in authorizing certain of its content to be made available on the YouTube site, we are unable to do so until we reach appropriate licensing arrangements. As our companies have unfortunately not been able to reach such a deal, we are compelled to insist that it be removed.

I am writing now to advise you that although Viacom expects YouTube to comply promptly with these take down notices, we do not believe that such compliance alone will fully discharge YouTube's responsibilities with respect to our copyrighted content. As you know, YouTube has a continuing, affirmative obligation to prevent copyright infringement on its site and to rectify infringements that do occur, whether or not it has received a specific notice of infringement from a rights holder.

As YouTube is well aware, the takedown notices we have provided relate only the portion of our copyrighted content that we were able to find residing on the YouTube site. There is certainly more, and there is new copyrighted content that undoubtedly will be posted immediately after the takedown. We expect YouTube to take at least the following steps to prevent further infringements of our copyrighted works:

1515 Broadway > New York > NY 10036 Tel > 212 258 6070 Fax > 212 258 6099 Email > michael.fricklas@viacom.com

- In addition to the specific content identified in the takedown notices, take down all instances of the copyrighted programming identified in today's take down notices, whether or not the particular file has been specifically identified in an individual notice. In other words, differing excerpts and full length copies of each of the works identified in a notice must be taken down immediately.

- Take prompt steps to prevent further uploads of any unauthorized excerpts or full copies of the works identified in today's notices.

- Work with Viacom on a continuing basis to monitor the YouTube site for additional unauthorized copies of our copyrighted works as we identify them to you from time to time and implement the same prevention and takedown programs with respect to such works.

- Notify users who have posted clips that are being taken down that their postings violate the copyright laws and YouTube's Terms of Use.

- Implement a program of terminating the user accounts of YouTube users who repeatedly infringe copyrights after receiving notice that they are in violation of the law and YouTube's Terms of Use.

We understand that YouTube has taken the position that it has no obligation to implement measures to prevent or reduce the rampant infringement on its site, other than to delete or block access to specific infringing videos identified in notices provided by a rights holder. We understand that in asserting this position, YouTube claims to qualify under the provision of the Digital Millennium Copyright Act (17 U.S.C. §512) which provides for such a "notice and take down" process in some situations. Leaving aside the fact that YouTube's practices are not sufficient even for a provider that does qualify under §512, YouTube plainly does not qualify under that provision, based on the nature of its site and its activities in connection therewith.

YouTube has an affirmative duty to actively police its site and develop a reasonable program to prevent the massive infringement that is now taking place, irrespective of whether it has received individualized notifications of infringement on the site. Moreover, copyright owners such as Viacom who do provide notifications of infringement, need only identify *representative* copyrighted works that are infringed and provide information *reasonably* sufficient to allow YouTube to identify the infringing material.

Even where §512 applies, the legislative history of that provision makes abundantly clear that the service provider has the responsibility to use that

information to find and block access to all of the infringing content identified in this manner by the rights holder. See H. Rep. 105-551(II), at 55; S. Rep. 105-190, at 46 ("Where multiple works at a single on-line site are covered by a single notification, a representative list of such works at that site is sufficient.") Accordingly, even if YouTube were a §512 service provider, the notifications provided with this letter (along with all prior notifications Viacom has provided to YouTube) require YouTube to remove all infringing Viacom copyrighted content that can reasonably be identified based on the representative lists provided thus far.

While we expect YouTube to comply promptly with the program described above, we also understand that YouTube intends to implement filtering techniques through AudibleMagic and more advanced techniques. We are interested in working with you to eliminate unnecessary burden and increase the effectiveness of the program. We believe it would be beneficial for our companies to collaborate in the following areas, among others:

- A meeting of our respective chief technology officers to discuss our mutual plans regarding automated solutions to identify infringing content and to electronically tag authorized content;

- The populating of databases of hashes and other identifying material to facilitate YouTube's enforcement program;

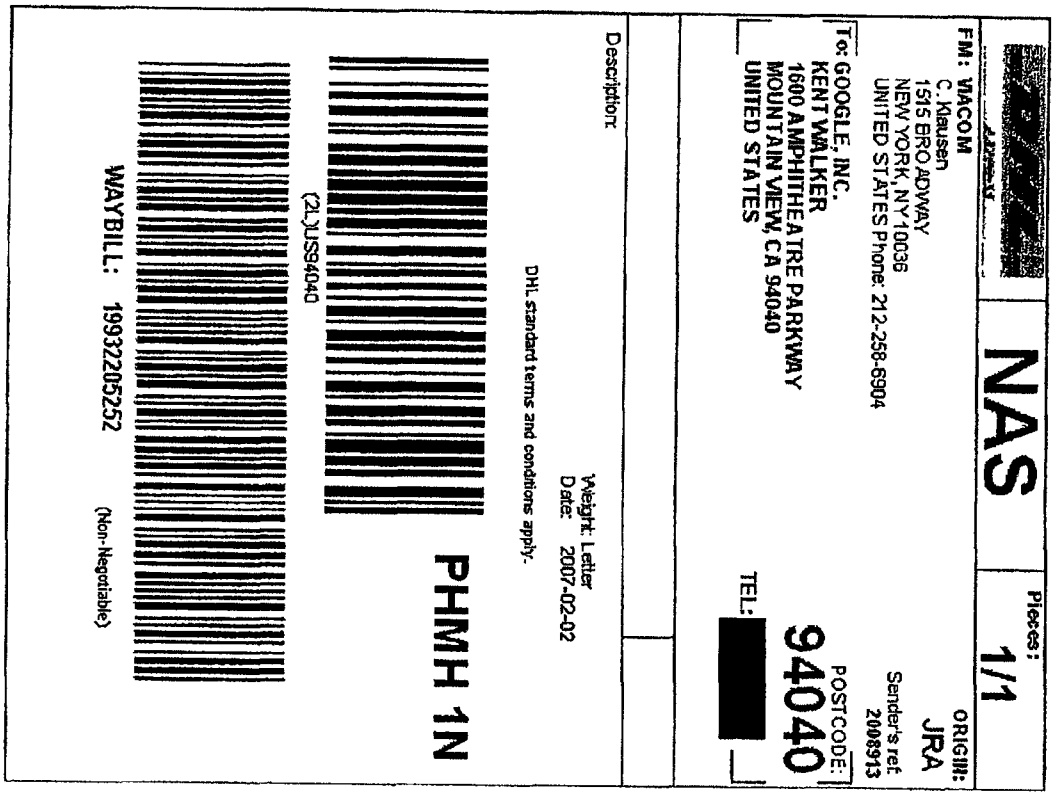
- Discussion of ways that information in YouTube's control could be used to detect and prevent infringing conduct, such as identifying search terms that are likely to return infringing content or whose use should alert YouTube to possible infringement and strategies to identify and deal with users who persistently violate the copyright laws and YouTube's Terms of Use.

We are sorry that we have been unable to come to an agreement and look forward to speaking with you promptly about the issues discussed in this letter.

Very truly yours,

Mike

Michael D. Fricklas



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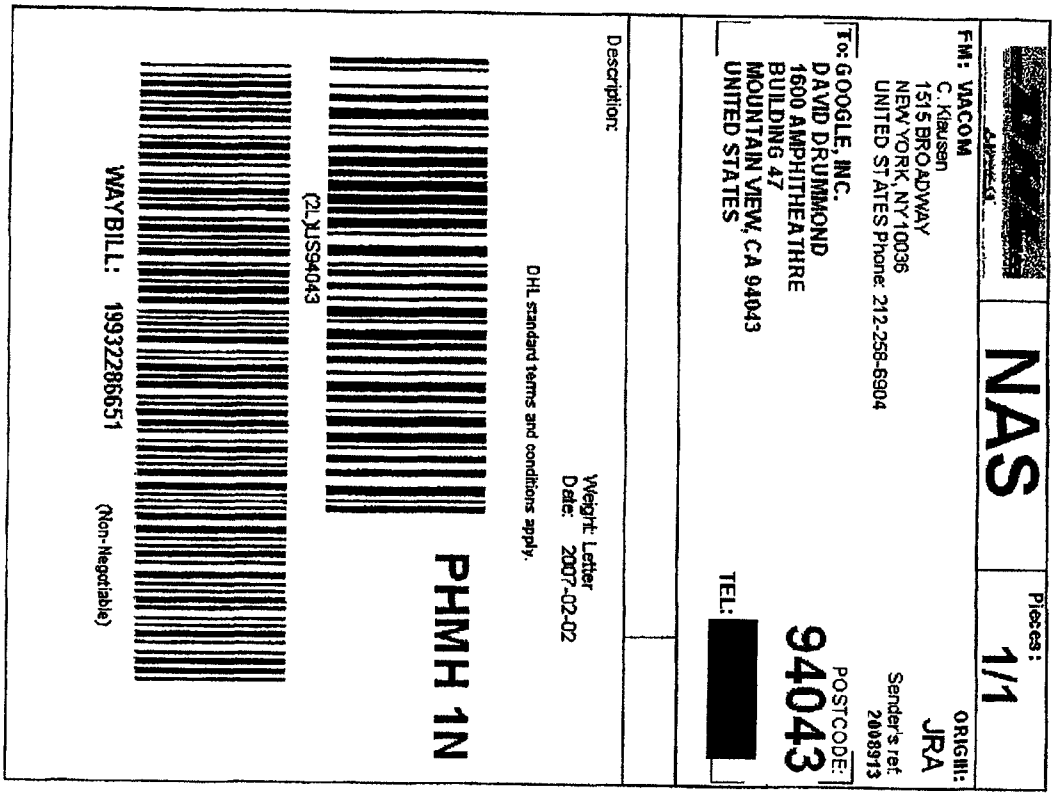
Thank you for shipping with DHL

Create new shipment ▶ View pending shipments Print waybill ▶



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For Tracking, please go to www.dhl-usa.com or call 1-800-225-5345

Thank you for shipping with DHL

Create new shipment ▶ View pending shipments Print waybill ▶

Hunte, Sherree

From: Hunte, Sherree
Sent: Friday, February 02, 2007 12:39 PM
To: Sussman, David
Cc: Klausen, Claire; Fricklas, Michael
Subject: FW: YouTube

Attachments: Google letter 020207.pdf

Google letter
)20207.pdf (159 ..

David,

Attached please find the PDF version of letter being sent to Google.

Sherree

-----Original Message-----
From: Fricklas, Michael
Sent: Friday, February 02, 2007 12:34 PM
To: Klausen, Claire; Hunte, Sherree
Subject: FW: YouTube

Yes - will have claire/ sherree send

-----Original Message-----
From: Sussman, David
Sent: Friday, February 02, 2007 12:33 PM
To: Fricklas, Michael
Subject: YouTube

Can I get a copy of our letter to them

Confidential

Confirmation Report – Memory Send

Date & Time: Feb-02-2007 02:26pm
Tel line : +12122586099
Machine ID : MICHAEL FRICKLAS / VIACOM

Job number	:	426
Date & Time	:	Feb-02 02:23pm
To	:	[redacted]
Number of pages	:	004
Start time	:	Feb-02 02:24pm
End time	:	Feb-02 02:26pm
Pages sent	:	004
Status	:	OK

Job number : 426 *** SEND SUCCESSFUL ***

VIACOM

FAX COVER SHEET

To: Kent Walker
Company: Google, Inc.
Phone:
Fax: [redacted]

From: Michael Fricklas
Company: Viacom
Phone: 212-258-6070
Fax: 212-258-6099

Date: February 2, 2007
Pages including this cover page: 4
Comments:

The information contained in or attached to this Facsimile message is intended only for the confidential use of the individual(s) named above and may be a privileged communication. If you are not the named recipient or an employee or agent responsible for delivering it to the named recipient, you are hereby notified that you have received this document in error and that review, dissemination or copying of this communication is prohibited. If you have received this communication in error, please notify us immediately by collect telephone and return the original documents to us by mail. We will reimburse to you the cost of any such mailing. Thank you

438084(1)

2/2/07

Confirmation Report – Memory Send

Date & Time: Feb-02-2007 02:24pm
Tel line : +12122586099
Machine ID : MICHAEL FRICKLAS / VIACOM

Job number	:	425
Date & Time	:	Feb-02 02:22pm
To	:	[redacted]
Number of pages	:	004
Start time	:	Feb-02 02:22pm
End time	:	Feb-02 02:24pm
Pages sent	:	004
Status	:	OK

Job number : 425 *** SEND SUCCESSFUL ***

VIACOM

FAX COVER SHEET

To: David Drummond
Company: Google, Inc.
Phone:
Fax: [redacted]

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Fax: 212-258-6099

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438084(1) 2/2/07

Hunte, Sherree

Full Name:	David Drummond
Last Name:	Drummond
First Name:	David
Job Title:	SVP Corp. Devel. & GC
Company:	Google Inc.
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Business:	[redacted]
Business Fax:	
E-mail:	[redacted]
E-mail Display As:	
Web Page:	http://www.google.com
Categories:	Holiday Cards - Business

Asst: [redacted]

Becky Allen
Administrative Assistant
Legal Department
Google Inc.
[redacted]
beckya@google.com

Confidential

Hunte, Sherree

Full Name:	Kent Walker
Last Name:	Walker
First Name:	Kent
Job Title:	Vice President & General Counsel
Company:	Google
Business Address:	1600 Amphitheatre Parkway Mountain View, CA 94040
Business:	[redacted]
Mobile:	
Business Fax:	
E-mail:	[redacted]
E-mail Display As:	

Assistant: Becky Allen (temporary assistant) [redacted] BeckyA@google.com

Assistant: Sarah Poteet [redacted] temporary - back-up to Becky Allen)

Main #: [redacted]
Main Fax: [redacted]

VIACOM

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Fax: [redacted]

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